

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

KEITH JACKSON v. STATE OF TENNESSEE

**Appeal from the Circuit Court for Hickman County
No. 08-5044C**

No. M2008-01956-CCA-R3-HC - Filed April 15, 2009

The Appellant, Keith Jackson, appeals the trial court's dismissal of his petition for habeas corpus relief. The Appellant's sentence has not expired and the trial court acted within its jurisdiction when it imposed the Appellant's sentence. Accordingly, the judgment of the trial court is affirmed.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Trial Court Affirmed
Pursuant to Rule 20, Rules of the Court of Criminal Appeals**

JERRY L. SMITH, J., delivered the opinion of the court, in which DAVID H. WELLES and ROBERT W. WEDEMEYER, JJ. joined.

Keith Jackson, pro se.

Robert E. Cooper, Jr., Attorney General & Reporter; Elizabeth B. Marney, Assistant Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

The Appellant was convicted of possession with intent to sell twenty-six grams or more of a substance containing cocaine in a drug-free school zone. The Appellant received a thirty-six year sentence as a Range II multiple offender, with the minimum sentence in that range of twenty-five years to be served at 100%. The Appellant subsequently filed a petition seeking habeas corpus relief. The Appellant alleged that his sentence was imposed in violation of the Criminal Sentencing Reform Act of 1989. The trial court disagreed and dismissed the petition without a hearing. The Appellant appealed, and the State has filed a motion to affirm pursuant to Court of Criminal Appeals Rule 20. For the reasons stated below, the State's motion is granted.

Article I, Section 15 of the Tennessee Constitution guarantees the right to seek habeas corpus relief, and Tennessee Code Annotated Sections 29-21-101 *et seq.* codify the applicable procedures for seeking such a writ. However, the grounds upon which our law provides relief are very narrow. McLaney v. Bell, 59 S.W.3d 90, 92 (Tenn. 2001). Habeas corpus relief is available in this state only when it appears on the face of the judgment or the record of the proceedings that the trial court was without jurisdiction to convict or sentence the defendant or that the sentence of imprisonment has

otherwise expired. Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993). In other words, habeas corpus relief may only be sought when the judgment is void, not merely voidable. Taylor v. State, 995 S.W.2d 78, 83 (Tenn. 1999). "[W]here the allegations in a petition for writ of habeas corpus do not demonstrate that the judgment is void, a trial court may correctly dismiss the petition without a hearing." McLaney, 59 S.W.3d at 93. A petitioner cannot collaterally attack a facially valid conviction in a habeas corpus proceeding. Potts v. State, 833 S.W.2d 60, 62 (Tenn. 1992); State ex rel. Holbrook v. Bomar, 364 S.W.2d 887, 888 (Tenn. 1963). Unlike a post-conviction petition, the purpose of a habeas corpus petition is to contest a void, not merely voidable, judgment. State ex rel. Newsome v. Henderson, 424 S.W.2d 186, 189 (Tenn. 1968).

The gist of the Appellant's claim is that he is not required to serve 100% of the minimum sentence for the applicable range. The Appellant is mistaken. The Appellant's sentence is not void. Pursuant to the Drug-Free School Zone statute, the trial court ordered the Appellant to serve twenty-five years of the thirty-six year sentence (the minimum sentence for a Range II multiple offender convicted of a Class A felony) at 100%. See Tenn. Code Ann. § 39-17-432(c). Nothing on the face of the judgment in the record indicates that the trial court was without authority to impose this enhanced sentence. Furthermore, this Court has upheld the constitutionality of the enhanced sentencing provisions of the Drug-Free School Zone statute. State v. Smith, 48 S.W.3d 159 (Tenn. Crim. App. 2000).

For the reasons stated above, the State's motion is granted. The judgment of the trial court is affirmed in accordance with Rule 20.

JERRY L. SMITH, JUDGE